COMMONWEALTH OF KENTUCKY
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November 17, 2000

Northern Kentucky Water Service District
c/o Charles H. Pangburn III
Hemmer, Spoor, Pangburn, DeFrank & Kasson PLLC
Suite 200
250 Grandview Drive
Ft. Mitchell, Kentucky 41017

Dear Mr. Pangburn:

This is in response to your letter regarding the procedures of the Northern Kentucky Water Service District. Specifically, you ask if the procedures established by the Northern Kentucky Water Service District (hereinafter "District") for paying its bills are in compliance with the controlling statute, KRS 74.050. That statute sets out the process by which the Treasurer of a water district is to pay out funds. It states:

> The treasurer of the commission shall pay out the funds of the commission only upon presentation of warrants signed by the chairman and countersigned by the secretary of the commission. As compensation for his services the treasurer shall receive an amount fixed by the commission, not to exceed two hundred dollars ($200) per year. He shall execute bond to the commission in an amount fixed by the commission.

Id. A specific concern you raise is whether this statute requires a Treasurer to review and manually sign each check processed by the District or is it sufficient for the Treasurer to review the expenditures and direct payment under the signature of an authorized officer of the water district. You have explained that approximately 1,000 District checks are signed and cosigned each month. You have further explained that the District Treasurer is a District Commissioner and

not a regular District employee, and that the two authorized officers who sign and cosign the checks are regular employees of the District.

In your correspondence, you provide the current procedure followed by the District Treasurer. It is as follows:

(1) The Chair of the Commission is provided with a list of proposed payments. The list identifies the amount of each payment, a description of the purpose of each payment and the person or entity to be paid. The Chair may request additional information regarding any proposed payment. If the Chair approves the list of payments, he or she will sign and date the list and return the list to the District.

(2) If and when the Chair has signed and dated the list, the list is provided to the Secretary of the Commission for review. The Secretary may request additional information regarding any proposed payment. If the Secretary approves the list of payments, he or she will sign and date the list and return it to the District.

(3) If and when the Chair and the Secretary have signed and dated the list, the list is provided to the Treasurer of the Commission for review. The Treasurer may request additional information regarding any proposed payment. If the Treasurer approves the list of proposed payments, he or she will direct payment by signing, dating and returning the list to the District.

(4) If and when a list of proposed payments is returned to the District with the appropriate signatures of the Chair, the Secretary and the Treasurer, checks are prepared and signed and countersigned by the authorized officers previously identified.

The above procedures appear to follow the statutory guidelines requiring warrants signed by the Chairman and countersigned by the Secretary of the commission. At issue is whether the statutory language of KRS 74.050 requiring the Treasurer of the commission to "pay out the funds of the commission" requires the manual signature of the Treasurer or merely the order by the Treasurer that the funds be paid out, under the co-signatures of two authorized officers.

There are currently no cases or opinions interpreting KRS 74.050 specifically. It therefore becomes necessary to consider statutory interpretation. The Supreme Court of Kentucky, in *Kentucky Industrial Utility Customers, Inc. v. Kentucky Utilities*, Ky., 983 S.W.2d 493 (1998), recently opined on the issue of statutory interpretation. It stated:

> The fundamental rule in statutory interpretation is to give effect to the legislative intent. A statute should not be interpreted so as to bring about an absurd or unreasonable result. The policy and purpose of the statute must be considered in determining the meaning of the words used.

Id. at 500. (Citations omitted.)

KRS 74.050 provides the degree of oversight the Treasurer of a water district must maintain for the payment of commission funds. By statute, only after the Treasurer has been presented with warrants signed by both the Chairman and Secretary of the commission, may funds be paid out. The procedures of the District require these signatures. Having obtained these signatures, the statute provides that the Treasurer shall pay out funds of the commission.

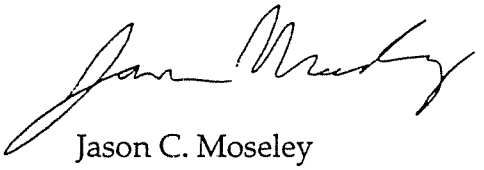
The language of KRS 74.050 specifically requires that warrants be "signed" by the Chairman and "countersigned" by the Secretary of the commission. In contrast, the language of KRS 74.050 does not require the Treasurer to "sign" anything, but instead the language only requires the Treasurer to "pay out the funds of the commission." The procedures of the Northern Kentucky Water Service District require the Treasurer to review the list of proposed payments signed by the chairman and the secretary of the commission, and if the Treasurer approves the proposed payments, the Treasurer will direct the payment of funds by signing, dating and returning the list to the Water Service District. It is only

with this act of the Treasurer that payment of commission funds may be made. The only remaining task is the perfunctory signing of the checks by authorized officers. Therefore, it is the Treasurer who remains responsible for the payment of commission funds and it is the Treasurer who exercises the final authority that causes the payment of commission funds.

In view of the statutory language and existing procedures of the Northern Kentucky Water Service District, to require the Treasurer to sign or countersign each of the approximately 1,000 checks processed monthly by the Northern Kentucky Water Service District would appear to be unreasonable. The procedures set forth by the Northern Kentucky Water Service District satisfy KRS 74.050.

Under KRS 74.020(7)(b), the Public Service Commission is responsible for the regulation of all water district management training programs. We have discussed the Northern Kentucky Water Service District procedures with Gerald Wuetcher, Assistant General Counsel of the Public Service Commission, and he concurs with our position on this matter. This letter is limited to the application of KRS 74.050 to the Northern Kentucky Water Service District procedures.

Sincerely,



Jason C. Moseley
Assistant Attorney General

cc: Gerald Wuetcher, Assistant General Counsel
Public Service Commission